

AMENDED IN SENATE APRIL 21, 2008

SENATE BILL

No. 1221

Introduced by Senator Kuehl

February 14, 2008

An act to *amend Section 15438.5 of the Government Code, and to add Part 7 (commencing with Section 1179.100) to Division 1 of the Health and Safety Code, relating to health facility financing.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1221, as amended, Kuehl. Health facility financing.

Existing law authorizes, if a health facility seeking financing for a project pursuant to the California Health Facilities Financing Authority Act does not meet the guidelines established by the California Health Facilities Financing Authority with respect to bond rating, the authority to give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of these provisions, a health facility that performs a significant community service is one that contracts with Medi-Cal or that can demonstrate that it has fulfilled specified criteria regarding community service.

~~This bill would require any local government or joint powers authority that provides financing to a nonprofit health facility, as defined, that seeks financing for a project, as defined, to be subject to the above-described financial feasibility and community service requirements~~ *require any health facility seeking financing for a project from the authority, a local government, or a joint powers authority, to demonstrate significant community service, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15438.5 of the Government Code is
2 amended to read:
3 15438.5. (a) It is the intent of the Legislature in enacting this
4 part to provide financing only, ~~and, except as provided in~~
5 ~~subdivisions (b), (c), and (d), only~~ to health facilities that can
6 demonstrate the financial feasibility of their projects. It is further
7 the intent of the Legislature that all or part of any savings
8 experienced by a participating health institution, as a result of that
9 tax-exempt revenue bond funding, be passed on to the consuming
10 public ~~through lower charges or containment of the rate of increase~~
11 ~~in hospital rates. It is not the intent of the Legislature in enacting~~
12 ~~this part to encourage unneeded health facility construction.~~
13 Further, it is not the intent of the Legislature to authorize the
14 authority to control or participate in the operation of hospitals,
15 except where default occurs or appears likely to occur.
16 (b) When determining the financial feasibility of projects, the
17 authority shall consider the more favorable interest rates reasonably
18 anticipated through the issuance of revenue bonds under this part.
19 It is the intent of the Legislature that the authority attempt in
20 whatever ways possible to assist health facilities to arrange projects
21 that will meet the financial feasibility standards developed under
22 this part.
23 (c) ~~If a~~ A health facility seeking financing for a project pursuant
24 to this part ~~does not meet the guidelines established by the authority~~
25 ~~with respect to bond rating, the authority may nonetheless give~~
26 ~~special consideration, on a case-by-case basis, to financing the~~
27 ~~project if the health facility demonstrates shall demonstrate to the~~
28 ~~satisfaction of the authority the financial feasibility of the project,~~
29 ~~and the performance of significant community service. For the~~
30 ~~purposes of this part, a health facility that In determining whether~~
31 ~~a health facility performs a significant community service is one~~
32 ~~that contracts with Medi-Cal or that can demonstrate, with the~~
33 ~~burden of proof being on the health facility, that it has fulfilled at~~
34 ~~least two the authority shall consider whether the health facility~~
35 does all of the following criteria:

~~(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, that jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.~~

~~(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.~~

~~(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.~~

~~(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.~~

(1) Establishes and maintains a policy of treating all patients without regard to ability to pay, pursuant to Section 1317 of the Health and Safety Code or, if the health facility is not subject to that section, maintains its own policy for providing services without regard to ability to pay.

(2) Establishes and maintains, except in open areas where the selective provider contracting program provided pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is not in effect,

1 *a contract with the California Medical Assistance Commission for*
2 *the provision of services to Medi-Cal beneficiaries or a contract*
3 *with a Medi-Cal managed care plan for the provision of services*
4 *to enrollees.*

5 *(3) Establishes and maintains a charity care policy pursuant to*
6 *Section 127405 of the Health and Safety Code.*

7 *(4) Establishes and maintains a mechanism for tracking and*
8 *reporting its costs and charges for services, and clinical quality*
9 *data to state and federal agencies, including, but not limited to,*
10 *the federal Centers for Medicare and Medicaid Services, pursuant*
11 *to the Hospital Quality Alliance.*

12 *(5) Provides significant community service through other factors*
13 *that the authority deems appropriate to further the purposes of*
14 *this section. In reviewing the facility's provision of community*
15 *service, the authority shall consider the facility's community needs*
16 *assessment and the methods used to prioritize community needs*
17 *for inclusion in its community benefit plan required under Section*
18 *127350 of the Health and Safety Code. The authority shall also*
19 *consider whether or not the community benefit plan includes an*
20 *implementation schedule and economic valuation of the benefit.*

21 *(d) Enforcement of the conditions under which the authority*
22 *issues bonds pursuant to this section shall be governed by the*
23 *enforcement conditions under Section 15459.4.*

24 **SECTION 1.**

25 *SEC. 2. Part 7 (commencing with Section 1179.100) is added*
26 *to Division 1 of the Health and Safety Code, to read:*

27
28 **PART 7. LOCAL FINANCING OF HEALTH FACILITIES**
29

30 ~~1179.100. Any local government or joint powers authority that~~
31 ~~provides financing to a nonprofit health facility, as defined in~~
32 ~~subdivision (d) of Section 15432 of the Government Code, that~~
33 ~~seeks financing for a project, as defined in subdivision (f) of~~
34 ~~Section 15432 of the Government Code, shall be subject to the~~
35 ~~financial feasibility and community service requirements described~~
36 ~~in subdivision (e) of Section 15438.5 of the Government Code.~~

37 *1179.100. (a) It is the intent of the Legislature in enacting this*
38 *part to provide financing only to health facilities that can*
39 *demonstrate the financial feasibility of their projects. It is further*
40 *the intent of the Legislature that all or part of any savings*

1 *experienced by a participating health institution, as a result of*
 2 *that tax-exempt revenue bond funding, be passed on to the*
 3 *consuming public. Further it is not the intent of the Legislature to*
 4 *authorize the authority to control or participate in the operation*
 5 *of hospitals, except where default occurs or appears likely to occur.*

6 *(b) A health facility, as defined in subdivision (d) of Section*
 7 *15432 of the Government Code, seeking financing for a project,*
 8 *as defined in subdivision (f) of Section 15432 of the Government*
 9 *Code, from a local government or joint powers authority shall*
 10 *demonstrate to the satisfaction of the local government or joint*
 11 *powers authority the performance of significant community service.*
 12 *In determining whether a health facility performs significant*
 13 *community service, the local government or joint powers authority*
 14 *shall consider whether the health facility does all of the following:*

15 *(1) Establishes and maintains a policy of treating all patients*
 16 *without regard to ability to pay, pursuant to Section 1317 of the*
 17 *Health and Safety Code or, if the health facility is not subject to*
 18 *that section, maintains its own policy for providing services without*
 19 *regard to ability to pay.*

20 *(2) Establishes and maintains, except in open areas where the*
 21 *selective provider contracting program provided pursuant to*
 22 *Article 2.6 (commencing with Section 14081) of Chapter 7 of Part*
 23 *3 of Division 9 of the Welfare and Institutions Code is not in effect,*
 24 *a contract with the California Medical Assistance Commission for*
 25 *the provision of services to Medi-Cal beneficiaries or a contract*
 26 *with a Medi-Cal managed care plan for the provision of services*
 27 *to enrollees.*

28 *(3) Establishes and maintains a charity care policy pursuant to*
 29 *Section 127405 of the Health and Safety Code.*

30 *(4) Establishes and maintains a mechanism for tracking and*
 31 *reporting its costs and charges for services, and clinical quality*
 32 *data to state and federal agencies, including, but not limited to,*
 33 *the federal Centers for Medicare and Medicaid Services, pursuant*
 34 *to the Hospital Quality Alliance.*

35 *(5) Provides significant community service through other factors*
 36 *that the local government or joint powers authority deems*
 37 *appropriate to further the purposes of this section. In reviewing*
 38 *the facility's provision of community service, the local government*
 39 *or joint powers authority shall consider the facility's community*
 40 *needs assessment and the methods used to prioritize community*

1 *needs for inclusion in its community benefit plan required under*
2 *Section 127350 of the Health and Safety Code. The local*
3 *government or joint powers authority shall also consider whether*
4 *or not the community benefit plan includes an implementation*
5 *schedule and economic valuation of the benefit.*

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